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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,637	11/13/2003	Lapthe Chau Flora	ITDE-PNV110US	8980
23122	7590	06/10/2004	EXAMINER	
RATNERPRESTIA			NGUYEN, THONG Q	
P O BOX 980			ART UNIT	PAPER NUMBER
VALLEY FORGE, PA 19482-0980			2872	

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/712,637	Applicant(s) FLORA, LAPTHE CHAU	
	Examiner Thong Q Nguyen	Art Unit 2872	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/13/2003</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings contain two sheets of figures 1-2 were received on 11/13/2003. These drawings are approved by the Examiner.

### ***Specification***

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
3. The disclosure is objected to because of the following informalities: In page 6: line 11, "he" should be changed to --the--. Appropriate correction is required.

### ***Claim Objections***

4. Claim 6 is objected to because of the following informalities. Appropriate correction is required.

Claim 6 recites the element used to connect the lens cap to a device; however, the phrase "or the like" (line 2) renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). Should "by a cord, or cable or the like" (line 2) be changed to --by a cord or cable.--?

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsukui (Japanese reference No. 2000-305132).

Tsukui discloses a vision enhancing device having a mechanism for protecting a lens from damage/dust. In pages 2-3, sections [0010]-[0013] and figs. 1-5, Tsukui discloses an image pickup device having a body (11) having an objective lens barrel (12) which as understood comprises at least one objective lens element; a lens cover element (13) used to cover the objective lens supported by the lens barrel. The body has on its side a lens cover attachment section (15) which comprises protrusions having shape complementary to that of the lens cover. Thus, a user will remove the lens cover (13) from the barrel (12) and attach it to the lens cover attachment section when the device is put in use. It is noted that both the lens cover (13) and the protrusion of the lens cover attachment section have substantial circular-shaped configuration.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al (U.S. Patent No. 5,943,174, submitted by applicant) in view of Schweitzer et

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al (U.S. Patent No. 5,867,313, submitted by applicant), Tsukui (Japanese reference No. 2000-305132) and Agata et al (U.S. Patent No. 6,680,845).

Bryant et al, Patent No. '174, disclose a night vision device having a housing for supporting an objective lens section, an image intensifier section and an eyepiece section. The use of an adapter secured to the housing for attaching the night vision device to an accessory wherein the adapter comprises a fastener in the form of a screw having a shape and size similar to those of the objective lens section is implied as can be seen in columns 6-7 and shown in figures 8-10. The only feature missing from the night vision device provided by Bryant et al is that they do not explicitly state the use of a lens cap for covering the objective lens section of the device when the device is not in use.

However, the use of a lens cap for covering the objective lens of a night vision device is clearly known to one skilled in the art as can be seen in the night vision device provided by the Patent No. '313 which has the same assignee and two common inventors as those of the Patent No. '174. In particular, in columns 7-8 and fig. 1, Scheiweitzer et al, Patent No. '313, discloses the use of a lens cap (170) for covering the objective lens section of a night vision device wherein the lens cap is connected to the housing of the night vision device (10) by a cord (184). Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the night vision device provided by Bryant et al by utilizing a lens cap connected to the housing of the night vision device as

suggested by Schweitzer et al for the purpose of covering the objective lens section of the device from damage/dust when the device is not in use.

The combined product provided by Bryant et al and Schweitzer et al as described above does not state that the lens cap is hold by the protrusion formed on the adapter secured to the housing for attaching the night vision device to an accessory as claimed. However, the use or the modification of attaching a lens cap onto a section of an optical device when the device is not in use is found in each of the Japanese reference No. 2000-305132 and the U.S. Patent No. 6,680,845. In particular, Tsukui discloses a vision enhancing device having a mechanism for protecting a lens from damage/dust. In pages 2-3, sections [0010]-[0013] and figs. 1-5, Tsukui discloses an image pickup device having a body (11) having an objective lens barrel (12) which as understood comprises at least one objective lens element; a lens cover element (13) used to cover the objective lens supported by the lens barrel. The body has on its side a lens cover attachment section (15) which comprises protrusions having shape complementary to that of the lens cover. Thus, a user will remove the lens cover (13) from the barrel (12) and attach it to the lens cover attachment section when the device is put in use. It is noted that both the lens cover (13) and the protrusion of the lens cover attachment section have substantial circular-shaped configuration. In the same viewpoint, Agate et al disclose the use of a lens cap (44) for an optical device having an objective lens section support an objective lens (43) wherein the lens cap is connected to the device by a cord (45). Agata et

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al teach that when the device is put in use then the lens cap is removed from the lens barrel (41) and placed in a recess (28) of the device for the purpose of avoiding the problem of dangle movement to make an obstacle to the image pickup and eliminating the possibility of missing. See Agata et al, column 9.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to attach the lens cover onto the protrusion in the form of a screw head of the adapter used to secure the night vision device to an accessory when the protrusion in the form of a screw head has its size and shape similar to those defined by the objective lens section in the device provided by Bryant et al and Schweitzer et al as suggested by Tsukui and Agata et al for the purpose of avoiding the problem of dangle movement to make an obstacle to the image pickup and eliminating the possibility of missing.

### ***Conclusion***

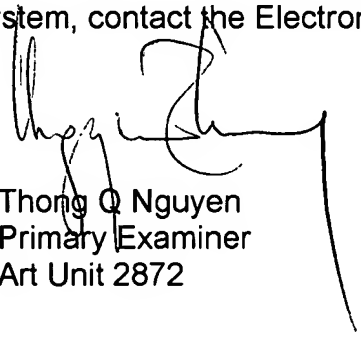
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen  
Primary Examiner  
Art Unit 2872

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